



Department of
**Enterprise, Trade
and Investment**
www.detini.gov.uk

Consultation Paper

Proposed amendment to the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007

Contents

Ministerial Foreword

Page 3

1

Purpose of Consultation and how to Respond

Page 4

2

Proposed Amendment to the SEM Order

Page 7

FOREWORD



Electricity markets across Europe are developing to align with the EU's vision for an integrated electricity market. The regulations, codes and guidelines which make up the EU's third Energy Package impose obligations on member states, regulators and market participants to implement the European electricity market. These requirements apply equally to our Single Electricity Market (SEM).

The amended Order will clarify our existing single market legislation to reflect the new European dimension to the functioning of the SEM.

This is a small change and there is a lot of very complex and technical work ahead. We have secured derogation from some aspects of the changes until the end of 2017 but we need to press ahead on all fronts if we are to meet our commitments.

When I met the Single Electricity Market Committee which oversees the All-Island Market they explained how revised market arrangements could promote competition, stimulate innovation and bring down costs. But a key objective for all of us - Departments, Regulators and industry - is to comply with our EU obligations.

A handwritten signature in black ink that reads "Arlene Foster". The signature is written in a cursive, flowing style.

Arlene Foster MLA
Minister of Enterprise, Trade and Investment

Purpose of Consultation and how to Respond

1

Purpose of consultation

- 1.1 The purpose of this consultation is to seek views on a proposed amendment to the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 ([“the SEM Order”](#)).
- 1.2 The amendment is to clarify that the all-island Single Electricity Market (SEM) operates within the European legislative framework. This framework is known as IME3 (i.e. the Internal Market in Electricity, third package). The most relevant elements are the [Electricity Regulation](#) and the obligation to implement preparatory arrangements under the [Capacity Allocation and Congestion Management Regulation](#) due to come into force by June/July 2015.
- 1.3 Further details and information on the proposed legislative change are set out in Chapter 2.

DETI is seeking views on:

The proposal to amend the definition of “the SEM” in Article 2 of the SEM Order as outlined in this paper.

How to respond

- 1.4 Responses should be sent, preferably by email, **to arrive by 5pm on 9 June 2015** to: electricity@detini.gov.uk

or by post to:

**Legislation Branch
Energy Division
Department of Enterprise, Trade and Investment
Netherleigh, Massey Avenue
BELFAST
BT4 2JP**

All responses should include the name and postal address of the respondent.

Confidentiality & Data Protection

- 1.5 Your response may be made public by DETI and placed on the DETI website. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 1.6 Information provided in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 1.7 In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Copies of the document

- 1.8 This document is being produced in electronic form and may be accessed on the [DETI Energy website](#) or may be obtained from the address above or by telephoning 028 9052 9898.
- 1.9 If you require access to this consultation paper in a different format – e.g. Braille, disk, audio cassette, larger font – or in a minority ethnic language please contact the Department on 028 9052 9898 and appropriate arrangements will be made as soon as possible.

PROPOSED AMENDMENT OF THE SEM ORDER

2

Background

- 2.1 The SEM was established in November 2007 with parallel legislation being made in NI and RoI. In Northern Ireland this was the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (the SEM Order). This was underpinned by a Memorandum of Understanding between the UK and Ireland. The SEM is governed by the SEM Committee (SEMC) which consists of both independent members and representation from the Regulatory Authorities in the Republic of Ireland (Commission for Energy Regulation) and Northern Ireland (Northern Ireland Authority for Utility Regulation (NIAUR)).
- 2.2 Substantial work has already been undertaken by the regulatory authorities in Northern Ireland and the Republic of Ireland to explore options for developing the all-island SEM in order to meet the requirements of the European Union's 'Target Model'.

EU network codes and guidelines – the CACM Regulation

- 2.3 Markets across Europe are developing to align with the connection, operational and market codes that are emerging from Europe under the auspices of the EU Third Package Electricity Regulation. These network codes set the rules that will facilitate the harmonisation, integration and efficiency of the European electricity market. They are directly effective: they are binding on member states and on market participants and do not need to be 'transposed' into national legislation in order to have legal effect. In some cases domestic rules and arrangements may need to be adjusted to ensure compliance.
- 2.4 The first of these for electricity is the Capacity Allocation and Congestion Management (CACM) Regulation. It has recently entered into the final scrutiny period and is expected to come into force by summer 2015. CACM sets out rules to introduce a single approach to cross border electricity trading across Europe. Further information on CACM and the network codes generally can be accessed on the [ENTSO-E website](http://networkcodes.entsoe.eu/category/stakeholder-involvement/?p=capacity-alloc-congestion-management)¹ and information on the work to date in relation to the SEM can be found on the [All-island website](http://www.allislandproject.org/)².

¹ <http://networkcodes.entsoe.eu/category/stakeholder-involvement/?p=capacity-alloc-congestion-management>

² <http://www.allislandproject.org/>

2.5 Northern Ireland and the Republic of Ireland have been given derogation from some of the CACM requirements until 31 December 2017. However, CACM also imposes an immediate obligation on both jurisdictions to facilitate the transition to full implementation and take all preparatory steps to ensure full compliance by that date. This is a challenging timeframe. For example, work is underway to progress the Nominated Electricity Market Operator (NEMO) designation process in line with Articles 4, 5 and 6 of CACM and to assess the obligations on Transmission System Operators (TSOs) under CACM.

Proposed legislative amendment

- 2.6 As noted the large majority of the changes arising from the EU Third Package Electricity Regulation have direct effect and require no further domestic legislation. Nonetheless, it is proposed to make an amendment to existing domestic legislation when CACM comes into force to clarify that the all-island SEM now operates under the European legal framework as well as the domestic arrangements. This will underpin the fact that the SEM is developing in both jurisdictions, as it must, in line with the binding requirements of EU legislation.
- 2.7 Consequently, an amendment will be made to the definition of “the SEM” in Article 2 of the SEM Order to reflect the fact that SEM is evolving from the arrangements initially established under the SEM Order and the Memorandum of Understanding which underpinned that Order.
- 2.8 The amended definition will refer to the requirements of the IME 3 Electricity Regulation, since it is that Regulation which establishes the framework for the network codes and guidelines. The definition will also refer to the CACM Regulation specifically. This is because, although (as noted above) aspects of the CACM will not be binding on Northern Ireland until 2017, there is an ongoing obligation to implement preparatory arrangements in advance of that date. This amendment furthers that process.
- 2.9 The amendment will clarify that when exercising its existing functions, the SEM Committee now does so within the European legislative framework and requirements. As this is primarily a clarification measure the proposed change will not ‘transpose’ the European legislation: as set out above, transposition of the bulk of the European legislation is not necessary. The amendment will not alter the scope of the SEM Order which already requires a wide range of regulatory functions to be exercised by the SEMC when they impact on the functioning of the SEM.
- 2.10 The detailed legislative proposal will be developed in consultation with the RoI’s Department of Communication, Energy and Natural Resources as it is envisaged that there will be a similar legislative amendment in ROI. Departmental officials are happy to engage directly with interested stakeholders during the consultation period to discuss the developing proposals.
- 2.11 The proposed amendment is not expected to have any impact on individuals/companies. A draft [Equality Impact Assessment Screening form](#) has been prepared and is published on the DETI website alongside this paper.

Timing and process

- 2.12 The legislative change will be made via section 2(2) of the European Communities Act 1972. Subject to the normal legislative process, the aim is to make the legislation as soon as possible after the CACM Regulation comes into force (currently expected to be late June/early July 2015).



Department of

**Enterprise, Trade
and Investment**

www.detini.gov.uk

Department of Enterprise,
Trade and Investment
Netherleigh
Massey Avenue
BELFAST
BT4 2JP

E: [email electricity@detini.gov.uk](mailto:electricity@detini.gov.uk)
T: 028 9052 9898
F: 028 9052 9549
Textphone: 028 9052 9304
www.energy.detini.gov.uk